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SC PUBLIC SERVICE  
COMMISSION

February 22, 2012

Ms. Jocelyn Boyd  
Chief Clerk and Administrator  
Public Service Commission of South Carolina  
101 Executive Center Drive, Suite 100  
Columbia, South Carolina 29210

Re: Docket No. 2012-54-C  
Frontier Access Service Tariff – NCUC No. 1 (“FAS Tariff”)  
Frontier Facilities for Intrastate Access Tariff (“FFIA Tariff”)

Dear Ms. Boyd:

Frontier Communications of the Carolinas Inc. (“Frontier”) recently filed tariff language in its South Carolina state access tariff effective January 1, 2012<sup>1</sup> which incorporated changes ordered by the Federal Communications Commission (“FCC”) in its November 18, 2011, *Report and Order and Further Notice of Proposed Rulemaking*.<sup>2</sup> Pursuant to the FCC Order, the revised tariff language provided that Frontier would assess rates equal to interstate switched access rates on all toll VoIP-PSTN traffic that it terminated.

On January 25, 2012, Verizon filed a letter taking issue with the substance of Frontier’s tariff filing, asserting that the FCC required the “application of rates not higher than interstate switched access rates to both originating and terminating VoIP-PSTN traffic”.<sup>3</sup> Verizon asked the Commission to require Frontier to modify its tariff to comport with Verizon’s interpretation of the FCC Order. In short, Verizon asks the Commission to require Frontier to reduce the originating intrastate access rates applicable to certain intrastate PSTN-originated traffic on Frontier’s network.

Frontier disputes Verizon’s interpretation of the FCC Order and urges the Commission to swiftly reject Verizon’s request.

The FCC was clear in its Order that it was not requiring reductions in originating access rates at this time. The FCC stated that it was “limiting reform to terminating access charges at this time”<sup>4</sup>, and noted its intent to “further evaluate” other charges such as originating access at a

<sup>1</sup> South Carolina Code of Laws states “The tariff shall be presumed valid and become effective seven days after filing for price decreases and fourteen days after filing for price increases and new services.” (Section 58-9-576(6))

<sup>2</sup> *In re: Connect America Fund, et. al, Report & Order and Further Notice of Proposed Rulemaking*, FCC 11-161 (rel. Nov. 18, 2011) (*Report & Order and FNPRM*).

<sup>3</sup> Letter from John M. S. Hoefer, Assoc. Gen. Counsel, Verizon, to Ms. Jocelyn Boyd, Chief Clerk and Administrator, SC Public Service Commission January 25, 2012.

<sup>4</sup> *Report & Order and FNPRM* at ¶ 739.

later date<sup>5</sup>. The FCC explicitly noted that it could not take action on originating access because there was an insufficient record to do so. Accordingly, in the FNPRM, the FCC “seek[s] comment on that final transition for *all* originating access charges,”<sup>6</sup> which would necessarily include the access charges associated with calls that originate on the PSTN and terminate in VoIP.

The FCC took pains to preserve the status quo for originating access rates for calls originating on the PSTN while it develops a record on appropriate transition and recovery mechanisms for these charges in the further rulemaking. The parts of the Order capping and continuing intrastate access rates for the interim do not note any exception for traffic originated on the PSTN and terminated via VoIP.<sup>7</sup> Moreover, the only portion of the Order’s VoIP-PSTN discussion that addresses originating access rates with any specificity (*which is the single paragraph cited by Verizon in its letter*) itself acknowledges that originating access rates are “subject to the phase-down and elimination of those charges pursuant to a transition to be specified in response to the FNPRM”<sup>8</sup>— in other words, there is no intent to flash-cut these rates to interstate levels in the present Order, particularly when the Order does not even make any recovery available for these lost revenues. The intrastate originating access rate reductions that Verizon seeks are clearly beyond what the FCC intended.

Indeed, accepting the Verizon position would have the effect of creating new arbitrage opportunities out of an Order that was intended to eliminate such gaming of the system. There has never been any dispute about originating access charges that terminate on VoIP, though Verizon’s interpretation would create one. Frontier knows the jurisdiction of the traffic that originates on its network, but cannot determine how a call terminates—on the PSTN or via VoIP. As a result, Frontier would be forced to rely on another carrier’s specified percentage of VoIP-terminated traffic in a situation where the carrier has the incentive to inflate its actual percentage of VoIP traffic. A disparity in originating rates for intrastate traffic terminating on the PSTN versus on an IP network would incent an interexchange carrier such as Verizon to specify a larger percentage of VoIP-terminated traffic to minimize their cost. The creation of such a situation should be avoided, especially as the FCC does not set a timeframe for addressing originating traffic, so the arbitrage opportunity would continue in perpetuity until further FCC action.

It should also be pointed out that on December 29, 2011, Frontier, along with Windstream Communications Inc. (“Windstream”) filed a Petition for Reconsideration/Clarification with

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<sup>5</sup> *Id.* “[W]e address those elements in the FNPRM.” (that is, a Future Notice of Proposed Rulemaking).

<sup>6</sup> *Id.* at ¶ 1298 (emphasis added).

<sup>7</sup> *Id.* at ¶ 818. “[W]e take immediate action to cap all interstate originating access charges and intrastate originating access charges for price cap carriers. Although we *do not establish the transition for rate reductions* to bill-and-keep in this Order, we *seek comment in the FNPRM on the appropriate transition and recovery mechanism for ultimately phasing down originating access charges*. . . A cap on interstate originating access represents a *first step* as part of our measured transition toward comprehensive reform. . . .” (emphasis added).

<sup>8</sup> *Id.* at ¶ 961, n. 1976.

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the FCC in Docket No. 01-92 concerning several issues, including clarifying the applicability of the FCC intercarrier compensation mandate to existing intrastate access rates for originating traffic. The Frontier/Windstream Petition directly addresses the arguments put forth by Verizon. Suffice it to say that this issue will be resolved by the FCC, and Frontier and all parties will abide by that resolution. Accordingly, this Commission need not, and should not, address Verizon's concerns at this time as it would be premature for the Commission to decide this issue prior to the FCC issuing a clarifying Order.

Frontier urges the Office of Regulatory Staff and the Commission to reject Verizon's request.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Afton Ellison". The signature is written in a cursive, flowing style.

Afton Ellison  
Analyst, Government and Regulatory Affairs

cc: John M.S. Hoefer, Esquire  
Nanette S. Edwards, Counsel, Office of Regulatory Staff